

## **REMARKS**

Claims 1-65 are pending in this application. Claims 56-61 are rejected and claims 1-55 and 62-65 are withdrawn from consideration. Claim 56 has been cancelled without prejudice or disclaimer with this amendment. Claim 57 has been amended herein to include the limitations of claim 56 from which it depended. Thus no new matter has been added by this amendment. Reconsideration of the application in view of the following is respectfully requested.

### **Priority**

In the interest of facilitating prosecution of the present application, Applicants have elected not to traverse the Office's determination of priority with respect to the present case. However, Applicants do not intend that this be construed as an implied agreement that any particular subject matter is entitled only to the filing date of the present application.

### **Specification**

The Office objected to the specification as allegedly containing informalities. Specifically, the Office alleges that the "Brief Description of the Drawing for Figure 2D fails to acknowledge the presence of the *S. pombe* Cdc 5 sequence both in the text of the drawing and and by indication of the corresponding SEQ ID NO.". (Office Action, page 3). Applicants traverse this rejection for the reasons presented below.

Applicants respectfully submit that Figure 2D is described at page 6, paragraph [0023], as depicting "the nucleotide sequence of hCdc5 cDNA (SEQ ID NO:11)" and, Figure 2D does depict that sequence. It does not depict the *S. pombe* Cdc5 gene. Accordingly, withdrawal of this objection is respectfully requested.

### **Rejections under 35 U.S.C. § 102(a)**

The Office has rejected claims 56-61 as allegedly being anticipated by *Lei et al.* (*J. Cell Sci.* **113**: 4523-4531, 2000). Specifically, the Office contends that “the inventive entity on the instant application is different than that listed on the article recited as prior art.” (Office Action, page 4). Applicants traverse the Examiner’s contention that *Lei et al* represents invention by another. Applicants note that Harold Bernstein, an author on *Lei et al.*, is also an inventor on the subject application and that the withdrawn claims are still pending. Accordingly, Applicants respectfully request withdrawal of this rejection.

### **Rejections under 35 U.S.C. § 102(b)**

The Office has rejected claim 56 as allegedly being anticipated by *Kuempel et al.* (*New Biol.* **3**: 799-811, 1991). In the interest of expediting prosecution of the present application and without prejudice or disclaimer, Applicants have elected to cancel claim 56. Thus, rejection of that claim under 35 U.S.C §102(b) is rendered moot.

### **Rejections under 35 U.S.C. § 102(e)**

The Office has rejected claim 56 as allegedly being anticipated under 35 U.S.C. § 102(e) by *Wagner et al.* (US 6,355,415 B1) and *Summers et al.* (US 6,190,867 B1) and *Hallsson et al* (*Genet.* **155**: 291-300, 2000). In the interest of expediting prosecution of the present application and without prejudice or disclaimer, Applicants have elected to cancel claim 56. Accordingly, rejection of that claim under 35 U.S.C §102(e) is rendered moot.

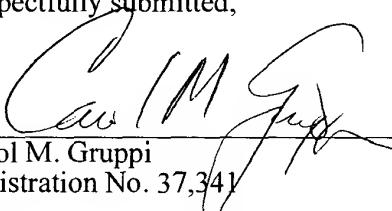
## CONCLUSION

Applicants respectfully submit that all objections and rejections have been overcome and/or rendered moot and that the presently pending claims are in condition for allowance. Should the Examiner believe any issues remain unresolved, he is invited to telephone the undersigned at (650) 813-5777 to discuss such concerns and/or arrange for an interview in order to continue with an expeditious prosecution of this application.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **220022001720**.

Respectfully submitted,

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